

EXHIBIT N

1 OF 4

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JOSUE SOTO, GHAZI RASHID,  
MOHAMED ABDELFAH, on behalf  
Of All Aggrieved Individuals,  
All Others Similarly Situated,  
and the General Public,

Plaintiffs,

vs.

CASE NO. 08-CV-0033-L-AJB

DIAGON LOGISTICS (DELAWARE), INC.,  
a foreign corporation; and DOES  
through 50, inclusive,

Defendants.

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DEPOSITION OF SAMUEL RUBIO, JR.  
Taken at San Diego, California  
Wednesday, April 28, 2010

Reported by Yesenia Ponce - CSR  
Certificate No. 12689

EXHIBIT N  
2 OF 4

Steven Espinoza - 4/28/2010

1 when you are doing a ride-behind?

2 A Yes.

3 Q And what is the purpose of doing a ride-behind?

4 A To offer assistance.

5 Q Do you also monitor their performance?

6 A No.

7 Q Do you talk to the customer on the  
8 ride-behinds?

9 A Yes.

10 Q Why do you talk to the customer?

11 A To be polite.

12 Q Is this something Sears requires you to do?

13 A Yes.

14 Q Do you check for the type of protection the  
15 delivery team puts down on the floors?

16 A I observe their -- yes.

17 Q And do you check to see how well the drive --  
18 delivery team communicates with the customer?

19 A Yes.

20 Q Do you check to make sure that the drivers are  
21 wearing proper attire?

22 A Yes.

23 Q Do you check to see if the trucks are in good  
24 shape?

25 A Yes.

Steven Espinoza - 4/28/2010

1 Q Do you check to see if the merchandise is  
2 loaded properly?

3 A Yes.

4 Q And do you check to see if the drivers are  
5 following traffic signs and speeds?

6 A Yes.

7 Q Do you check to see if the drivers are stopping  
8 for breaks?

9 A No.

10 Q If --strike that.

11 Is there some incentive in addition to  
12 compensation that the top-performing drivers are given?

13 A Money incentive?

14 Q Is there any nonmonetary incentive that the  
15 top-performing drivers are provided?

16 A Yes. We allow them to pick a given door number  
17 of their choice.

18 Q What is a given door number?

19 A We have anywhere from 17 doors. They are all  
20 numbered between 24 and 48, I believe. And they choose  
21 to -- their choice to pick the door if they reach a high  
22 incentive.

23 Q By "doors" you are talking about the loading  
24 dock at the warehouse?

25 A Yes.